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October 2, 2020

VIA CM/ECF

The Honorable Nicholas G. Garaufis
Senior United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. OZ Africa Management GP, LLC, No. 1:16-cr-00515-NGG

Dear Judge Garaufis:

This letter is respectfully submitted on behalf of all the parties to this matter: the victims represented by this law firm (the “Identified Victims”), the defendant OZ Africa Management GP, LLC (“OZ Africa” or “Defendant”), and the Government (together, the “Parties”), to respond to the Court’s Order that by October 2, 2020, the Parties provide the Court with an update and the identification of next steps to bring this matter to sentencing.

By way of update, since the Notice Letters were sent out, the Government has received a total of 120 previously unidentified restitution claims totaling approximately 294,500 shares of Africo stock, which represents approximately \$1,652,000 in restitution. The number of new claims submitted over the past week has dwindled and, accordingly, the Government has advised that it believes ending the claim period is now appropriate. To the extent the Government receives new claims between today and sentencing, it will evaluate those claims and add them as appropriate.

The Government has further advised that it is still performing diligence with respect to about 4 or 5 victim claims, primarily over the number of shares. It will endeavor to have those issues resolved in the next week. The number of shares at issue with these former shareholders is not material to the overall restitution amount, but all the Parties prefer to have those issues resolved in advance of sentencing so that a final restitution award can be entered by the Court at that time.

The Government has received two claims for Africo options in response to the Notice Letters: one from a former board member of an affiliate of Africo, and the other from a former employee of Africo. The former board member held 18,497 unexpired options at the relevant time period at a strike price of Canadian \$3.29 (approximately US\$3.26 at the time). This computes to a loss amount of \$61,225.07. The former employee held 8,324 unexpired options at

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the relevant time at a strike price of \$4.13 and an additional 4,624 options with a strike price of \$3.37, which computes to a loss amount of \$35,444.80.¹

The Government has also been provided with detailed information for the holdings of the Identified Victims represented by Wilson Sonsini. The Government is in the process of reviewing that data and expects to have completed its review within the next week.

Finally, as the Court was previously advised, there is a dispute between a claimant who has recently come forward and two claimants in the group represented by Wilson Sonsini with respect to a specific claim that is currently included in the group covered by the Settlement Agreement entered into between Defendant and the Identified Victims. The parties to that dispute have agreed that they prefer for this issue not to delay sentencing, the Court's Order of restitution, or the consummation of the Settlement Agreement. Accordingly, and with the consent of the Government and the Defendant, those claimants are working towards an agreement that would allow the Court to Order restitution on this claim, with the proceeds then being placed in a trust account at Wilson Sonsini, and those parties then arbitrating or consensually resolving the dispute between them.

Based on the above, the Government expects to have compiled a final list of victims by Tuesday, October 6, 2020. As previously noted, the Government will then give counsel to the Defendant, counsel to the Identified Victims and the newly identified victims an opportunity to comment on that list. Thereafter, it is the expectation of all the Parties that no later than October 12, 2020, the Government will submit the final victim list to the Court, along with the corresponding amount of restitution being jointly recommended to the Court by the Government, the Defendant and the victims.

As for the Settlement Agreement entered into between Defendant and the Identified Victims, based on the claims of new victims to date, all the Parties anticipate that the final restitution award that the Parties will jointly recommend to the Court will be below the \$141,000,000 threshold in the Settlement Agreement (\$136,000,000 to the Identified Victims plus the additional claims discussed above), thereby allowing the Settlement Agreement to become operative.

Based on the above, the Parties jointly request that the Court schedule sentencing in this matter for Wednesday, October 14, 2020, or as soon thereafter as the Court is available. As the

¹ Defendant has agreed to make these payments to these option holders for the sake of finality and to consummate the settlement the Parties have proposed to the Court, but has noted that it is not taking a position on the appropriateness of the payment or the methodology used to calculate that payment.

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Court was previously advised, the Parties all consent to having the sentencing proceed via videoconference.

The Parties remain available to answer any questions the Court may have with respect to the above.

Respectfully submitted,

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s/ Morris J. Fodeman

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cc: All Counsel of Record (via CM/ECF)